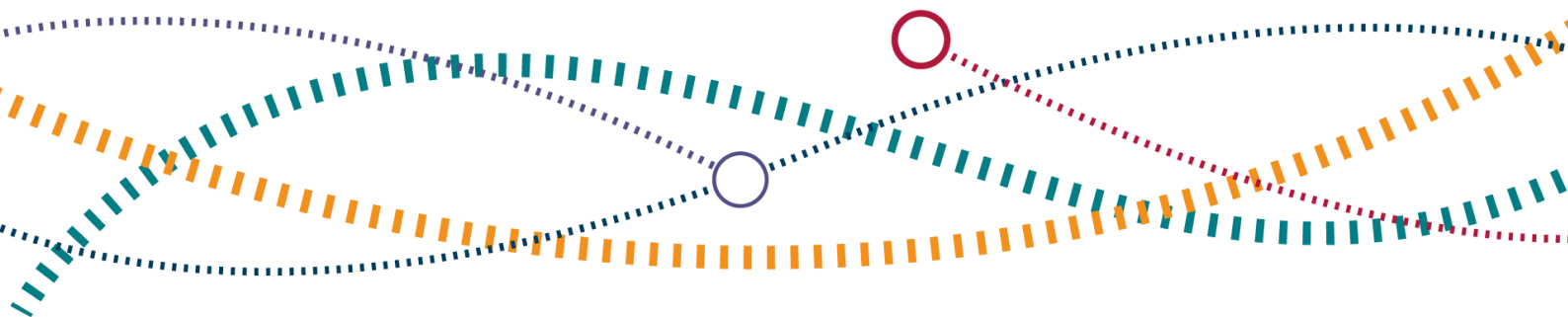




Consultation on ‘Principles for managing level crossing safety’ guidance

January 2021



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Introduction

The Office of Rail and Road (ORR) has a strategic objective to encourage the improvement of level crossing risk assessment, which is set out in our Strategic Risk Chapter on Level Crossings¹. As part of this objective, we intend to produce new guidance on principles for managing level crossing safety, which is aimed at supporting level crossing risk assessments. This will eventually replace our current primary guidance document for level crossings, 'Level Crossings: A guide for managers, designers and operators Railway Safety Publication 7 2011', known as RSP7².

We will, separately to this consultation, publish new guidance on the level crossing order process. We will also update our website to ensure that all our information on level crossings is up to date. All this related work is planned to be complete by the end of April 2021.

This consultation is asking for your views on the new principles. The closure date for responses to this consultation is 26 February 2021.

¹ <https://www.orr.gov.uk/sites/default/files/om/health-and-safety-strategic-risk-chapter-4-level-crossings.pdf>

² https://www.orr.gov.uk/sites/default/files/om/level_crossings_guidance.pdf

Principles for level crossing safety

Background to the new guidance

1. Our current published guidance on level crossings is found in a variety of documents but primarily in RSP7. Guidance on level crossing topics is also found in ORR's internal guidance documents, which are made available to the public, in safety notices, which are published on our website, and in other web pages.
2. RSP7 is out of date and can be difficult to use because it is long, prescriptive and contains information that is out of date or superseded. In particular, it duplicates information that is available elsewhere e.g., within technical standards. There is a focus in RSP7 on specific types of level crossings, particularly road crossings, and prescribing requirements for these crossings.
3. We want to broaden the guidance so that it deals with general principles of managing level crossing risk at all types of crossings and is accessible to the broader audience that can help deliver improvements in level crossing safety.
4. Therefore, we propose to publish a new principles-based document to replace RSP7 and to consolidate and update our other guidance notes and web pages. We have organised a steering group with relevant industry parties, which has provided us with feedback that we have used to produce the draft guidance for consultation.
5. We also undertook an exercise to review our existing guidance content and identify what information should be retained, either in the new guidance or in the new web pages, and what information was covered elsewhere or no longer required.

Purpose of the new guidance

6. The proposed 'Principles for managing level crossing safety' guidance is designed to inform the assessment and control of risks at level crossings. It sets out the principles to be applied and some of the factors to be considered when assessing risk at a level crossing. It is intended to help identify the risks that may foreseeably affect the safety of people who are working or travelling on the railway, as well as all crossing users.
7. The document is applicable to the design and day-to-day operation of all types of level crossings, as well to any renewal, enhancement, or maintenance work. It sets out that consideration should always first be given to alternatives to a level crossing.

This is followed with a ‘whole-system’ view of safety at retained level crossings, with considerations set out from the perspectives of the crossing users as well as railway and highway perspectives. In addition, we have included management considerations that are particularly relevant to level crossings, including the importance of collaboration between level crossing operators and others with a connection to level crossing safety, such as local highway authorities.

8. The principles cover a broad range of level crossings and encourage people to consider level crossings as a whole system, including the considerations from a user perspective, the railway perspective, and the highway perspective. Not every principle in the guidance will apply to every single level crossing.

Overview of the new guidance

9. The new principles guidance is divided into four sections covering:
 - Level crossing risk assessment
 - Safe for the user principles
 - Safe railway principles
 - Safe highway principles
10. The proposed ‘Principles for managing level crossing safety’ guidance is available on our website³.
11. There will be separate guidance for the level crossing order process, which is currently found in RSP7. We are also considering producing some case studies, to be made available via our website, that illustrate how the principles could be applied in a practical situation for different types of level crossings. We would like to know if this information would be useful for you.

Who is the new guidance for?

12. The principles guidance is a resource for anyone involved in level crossing safety, those whose activities impact on level crossing safety, and users of level crossings. It is specifically for those in the rail industry, traffic authorities and local authorities, such as:

³ <https://www.orr.gov.uk/search-consultations/consultation-new-orr-guidance-principles-level-crossing-safety>

- designers, planners and engineers;
- those dealing with access and public rights of way matters;
- managers, staff and volunteers in roles and with responsibilities which affect safety at, or near, level crossings;
- other duty holders associated with the railway, such as private land owners who have rights over the railway, train operating companies and freight operating companies.

13. Tramways are not included in the scope of this guidance.

Links to our existing Health and Safety guidance

14. The principles align with ORR's wider principles-led approach to health and safety guidance. It does not place additional burdens on duty holders or prescribe how a level crossing should be designed, operated or maintained.

The Equality Act 2010

15. We completed an equalities impact assessment exercise for this guidance as part of our Public Sector Equality Duty. This assessment considers what impact the new guidance will have in regard to our duty under the Equality Act 2010 to “eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups”.

16. We believe that the proposed principles make it clearer that consideration of level crossing users with protected characteristics is an important part of the risk assessment process. The full assessment is provided in Appendix B.

Responding to our consultation

Consultation questions

We are particularly interested in receiving feedback from those in your organisation who will be using the principles guidance in the future.

1. Who are you responding as (an individual/for an organisation) and what is your role?
2. Who would use this guidance in your organisation? When and how would it be used?
3. Are the risks associated with all types of level crossings sufficiently and clearly covered? Are there gaps in the document that you think need to be addressed?
4. If you carry out level crossing risk assessments, would you find this guidance helpful? Please explain your answer
5. ORR has published a number of principles-based guidance on various topics. How do the principles in this level crossings guidance fit with other railway safety guidance that you use?
6. What other information from ORR on level crossings would you find helpful?
7. (For businesses only, not including public bodies) We are required to review the impact of any regulatory changes, including guidance, on businesses. How would the proposed guidance impact on your business in terms of familiarisation and any changes to your processes?

How to respond to this consultation

Responses to this consultation are invited by the closure date of 26 February 2021 and should be sent by

email to: LevelCrossingPrinciples@orr.gov.uk

post to: ORR Level Crossings Principles consultation
Office of Rail and Road
25 Cabot Square
London E14 4QZ

Due to Covid-19 home working restrictions we ask that, wherever possible, you submit your response to us via email.

ORR has actively considered the needs of blind and partially sighted people in accessing this document in PDF format. The text is available in full on the ORR website, and may be

freely downloaded. Individuals and organisations can use free Adobe Reader accessibility features or screen readers to read the contents of this document.

If you need this document in a different format such as large print, easy read, audio recording or braille, please contact our Customer Correspondence Team via:

web enquiry form: <https://orr.gov.uk/contact-us#form>

email enquiries: contact.cct@orr.gov.uk

telephone: 020 7282 2000

postal address: ORR Level Crossings Principles consultation
Office of Rail and Road
25 Cabot Square
London E14 4QZ

We will consider your request and will endeavour to get back to you with the accessible format within 20 working days.

We plan to publish all responses to this consultation on our website. Should you wish any information that you provide, including personal data, to be treated as confidential, please be aware that this may be subject to publication, or release to other parties or to disclosure, in accordance with the access to information regimes.

In view of this, if you are seeking confidentiality for information you are providing, please explain why. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on ORR.

If you are seeking to make a response in confidence, we would also be grateful if you would annex any confidential information, or provide a non-confidential summary, so that we can publish the non-confidential aspects of your response.

Next steps

Following our consideration of the responses we receive, we will, if appropriate, proceed with the publication of the new principles guidance.

Appendix A: Public Sector Equality Duty consideration

1. This appendix sets out how we have fulfilled the requirements placed on us as a public authority by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. In summary, the PSED requires decision makers to pay due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
 - advance equality of opportunity between people who share a relevant protected characteristic and those who do not share it; and
 - foster good relations between people who share a relevant protected characteristic and those who do not share it.
2. In considering the extent to which our proposals contribute to the fulfilment of these duties, we have considered the equality impacts of our policy, primarily through the suggested questions set out in Equality and Human Rights Commission guidance⁴.
3. The proposed guidance document guides those making a risk assessment on how to carry out a 'suitable and sufficient' assessment of the safety risks at level crossings. It is intended to help identify the risks that may foreseeably affect the safety of people who are working, or travelling, on the railway as well as all crossing users.
4. The guidance is applicable to the day-to-day operation of all types of level crossing, as well as any renewal, enhancement or maintenance work. It also takes a 'whole-system' perspective of safety at level crossings by also providing guidance from the perspective of the highway and crossing users. Finally, the importance of management is recognised as a vital part of crossing safety.
5. The guidance does not place additional burdens on duty holders, nor does it prescribe how a level crossing should be designed, operated or maintained.
6. For the proposed guidance, the area where equality considerations are most relevant are regarding crossing users and particularly people with reduced mobility, which has

⁴ https://www.equalityhumanrights.com/sites/default/files/meeting_the_duty_in_policy_and_decision-making.pdf (accessed 19 August 2020).

relevance to the protected characteristics of disability, age, pregnancy and maternity and race.

1. Does the policy affect service users, employees or the wider community? The relevance of a policy to equality depends not just on the number of those affected but on the significance of the impact on them.

The primary audience for these principles is anyone who is undertaking a risk assessment for a level crossing. The way in which a risk assessment for a level crossing is carried out can affect the users of the crossing, as well as the wider community surrounding the crossing, because the risk assessment is the basis for implementing control measures.

The new document does not change the already existing legal requirements for consideration of these users, but makes the risks associated with persons of reduced mobility or vulnerable people using a crossing much clearer to a wider range of audiences of railway professionals undertaking risk assessments.

The most significant element relating to equality in the new document is for members of the public using level crossings, rather than passengers specifically or railway employees.

2. Is it likely to affect people with particular protected characteristics differently?

The guidance highlights that the needs of three groups of people with protected characteristics should be considered in relation to safety at level crossings: disability, age, pregnancy and maternity and race. In addition, the guidance recognises that there are groups of people who do not necessarily have a protected characteristic but who are collectively 'vulnerable road users' (for example cyclists and pedestrians among others). The risk assessments based on considering our principles would enable crossing operators to minimise risk to all these users, i.e. the four protected characteristic groups and the wider group of 'vulnerable road users'. The guidance itself does not affect people with particular protected characteristics differently.

3. Is it a major policy, significantly affecting how functions are delivered?

No, it does not change the existing legal obligations for ensuring equality for people with protected characteristics when using level crossings. The guidance provides advice but it does not place additional burdens on duty holders, nor does it prescribe how a level crossing should be designed, operated or maintained.

4. Will the policy have a significant impact on how other organisations operate in terms of equality?

No, the organisations responsible for maintaining and operating level crossings, and the highways that cross them already must consider the impact of their policies and decisions

on level crossings under the Equality Act 2010. Some of the organisations affected will also be required to consider PSED when they are making policies. The principles are designed to make it clearer that level crossings should be designed to prevent additional risks to persons of restricted mobility and other vulnerable crossings users and designed to facilitate use by such users.

5. Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?

The accessibility of level crossings is an important issue for people with restricted mobility. Issues such as warning information for users, the design and operation of crossing gates and barriers and the crossing surface itself can reduce access for some groups, or potentially introduce additional risks for some crossing user groups. This guidance emphasises that such issues must be given consideration when assessing risk at a level crossing.

6. Does the policy relate to an area with known inequalities?

Yes, there are known inequalities regarding people with restricted mobility and disabilities accessing level crossings. Level crossings, particularly footpath crossings, are often only accessible via rural footpaths, which may incorporate features such as stiles or gates. Known inequalities involve being able to reach level crossings due to inappropriate approaches such as poorly maintained footpaths, stiles etc.

Crossings themselves can also have features that disadvantage certain groups of users when using the level crossing, such as reliance on audible/visual warnings to alert users of an approaching train, uneven crossing surfaces etc. Level crossings can also be in some circumstances the only accessible route for people with restricted mobility to cross the railway in that area. This should be taken into account in any proposal to close a level crossing.

7. Does the policy relate to any equality objectives that have been set by your organisation?

The guidance does not directly relate to our current equality objectives. However, it is relevant to the same group of people with protected characteristics, as our current equality objectives are i.e. people with limited mobility.



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